



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

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Contact Person:  
  
Identification Number:  
  
Telephone Number:  
  
Employer Identification Number:

Dear :

We have considered your ruling request relating to the provision of survivorship benefits to non-spousal, non-dependent domestic partners.

Facts

You are a voluntary employees' beneficiary association described in section 501(c)(9) of the Internal Revenue Code ("Code"). Under the plan's trust, two types of death benefits are available upon the death of a participant: (1) a lump sum payment to the participant's designated beneficiary, and (2) monthly survivorship payments to either the participant's surviving spouse and children; or the participant's non-spousal domestic partner who is a "dependent" of the participant, within the meaning of section 152(d), and who meets certain other requirements.

You are governed by a Managing Board. Your Managing Board proposes to adopt a resolution to amend the plan's trust to remove the requirement that to be eligible to receive monthly survivorship payments, a participant's non-spousal domestic partner must also be a "dependent" of the participant, within the meaning of section 152(d) of the Code. Thus, under this proposed amendment, the non-spousal domestic partner of a participant who otherwise meets the applicable requirements of the plan, would be eligible to receive monthly survivorship payments, whether or not the partner is also a dependent of the participant, within the meaning of section 152(d).

Ruling Requested

Your status as a voluntary employee benefits association described in section 501(c)(9) of the Code will not be adversely affected by the amendment to your plan to permit non-spousal, non-dependent domestic partner beneficiaries to be eligible to receive monthly survivorship payments under the plan.

Law

Section 501(c)(9) of the Code states:

Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-1 of the Income Tax Regulations ("regulations") states:

To be described in section 501(c)(9) an organization must meet all of the following requirements:

....

(c) The organization provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, . . .

Section 1.501(c)(9)-3(a) of the regulations states:

The life, sick, accident, or other benefits provided by a voluntary employees' beneficiary association must be payable to its members, their dependents, or their designated beneficiaries.

Section 1.501(c)(9)-3(b) of the regulations states:

The term "life benefits" means a benefit . . . payable by reason of the death of a member or dependent.

### Analysis

Currently, under the plan's trust, two types of death benefits are available upon the death of a participant: (1) a lump sum payment to the participant's designated beneficiary, and (2) monthly survivorship payments to either the participant's surviving spouse and children; or the participant's non-spousal domestic partner who is a "dependent" of the participant, within the meaning of section 152(d) of the Code, and who meets certain other requirements.

You propose to amend the plan's trust to remove the requirement that to be eligible to receive monthly survivorship payments, a participant's non-spousal domestic partner must also be a "dependent" of the participant, within the meaning of section 152(d) of the Code.

Section 501(c)(9) of the Code and section 1.501(c)(9)-1(c) of the regulations states that an organization described in these provisions is one that provides life, sick, or other benefits to: (a) its members, or (b) their dependents, or (c) "[their] designated beneficiaries." In addition, section 1.501(c)(9)-3(a) states that these benefits must be payable to the organization's: (a) members, or (b) their dependents, or (c) their designated beneficiaries. Neither the statute nor the regulations defines the term "designated beneficiaries" for purposes of section 501(c)(9) of the Code. Nor does the legislative history of section 501(c)(9) explain the meaning of this

term. Furthermore, no case law addresses the meaning of this term. Therefore, it is appropriate to interpret this term using its plain meaning.

The proposed amendment to your plan's trust would permit the non-spousal domestic partner of a participant, who otherwise meets the applicable requirements of the plan, to be eligible to receive monthly survivorship payments, whether or not the partner is also a dependent of the participant, within the meaning of section 152(d) of the Code .

Section 501(c)(9) of the Code and sections 1.501(c)(9)-1(c) and 1.501(c)(9)-3(a) of the regulations permit a participant in a voluntary employees' beneficiary association to make death benefits available to the participant's "designated beneficiaries." There is no requirement that the beneficiary of a death benefit must also be a dependent of the participant. Under your plan's trust, two death benefits are available by reason of the death of the participant: lump sum payments and monthly survivorship payments. Therefore, just as a lump sum may be paid to a beneficiary who is not also a dependent of the participant, so may the monthly survivorship payments, because both are payable by reason of the participant's death. Accordingly, your proposed amendment to permit a non-spousal non-dependent beneficiary to qualify to receive monthly survivorship payments would be permissible under section 501(c)(9) of the Code and sections 1.501-1(c)(9) of the regulations.

#### Ruling

Your status as a voluntary employee benefits association described in section 501(c)(9) of the Code will not be adversely affected by the amendment to your plan to permit non-spousal, non-dependent domestic partner beneficiaries to be eligible to receive monthly survivorship payments under the plan.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Manager, Exempt Organizations  
Technical Group 1

Enclosure  
Notice 437